

2013-1682

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

FINJAN INC., a Delaware corporation,

Plaintiff-Appellant,

v.

SYMANTEC CORP., a Delaware corporation, WEBSense INC., a
Delaware corporation, SOPHOS INC., a Massachusetts corporation,

Defendants-Appellees.

Appeal From the United States District Court for the District
of Delaware, Case 10-CV-593-GMS, Judge Gregory M. Sleet

**DEFENDANTS-APPELLEES' UNOPPOSED MOTION FOR A THIRTY
DAY EXTENSION OF TIME TO FILE THEIR RESPONSIVE BRIEFING**

Pursuant to Federal Circuit Rule 26(b), Defendants-Appellees Symantec Corp., Websense, Inc., and Sophos, Inc. move for a thirty-day extension of time to file their responsive briefing. Pursuant to the Court's docket, Defendants-Appellees' responsive briefing is currently due on January 24, 2014. If this motion is granted, Defendants-Appellees' briefing would be due on February 24, 2014, which would thereby modify all subsequent deadlines accordingly.

1. On October 15, 2013, Plaintiff-Appellant, Finjan Inc., conferred with Defendants-Appellees regarding a two-week extension of time to file its opening brief. Defendants-Appellees did not oppose the extension, which was subsequently granted by this Court on October 22, 2013. (Dkt. No. 22.) Accordingly, Plaintiff-Appellant filed its opening brief on December 10, 2013, and this Court docketed the brief, noting that Defendants-Appellees responsive briefing is due January 24, 2014. (Dkt. No. 29.)

2. On December 11, 2013, Defendants-Appellees conferred with Plaintiff-Appellant, regarding a thirty-day extension to file their responsive briefing. Plaintiff-Appellant stated that it did not oppose Defendants-Appellees' request for an extension of time; therefore, it does not intend to file a response to this motion.

3. In addition to the fact that the parties have conferred and agreed to the revised schedule, there is good cause shown for an extension. The extension is made necessary by the holiday schedule and press of other litigation matters.

4. Dave Nelson is the appellate attorney for Defendant-Appellee Symantec Corp. Mr. Nelson is preparing for trial in another matter that is schedule to begin on January 13, 2014. That matter is *Lutron Electronics v. Crestron Electronics, et al.*, Case No. 2009-cv-707 (D. Utah).

5. Lori Mason is counsel for Defendant-Appellee Websense Inc. Ms. Mason also has scheduling issues that support a thirty-day extension as outlined in the attached declaration.

6. An adjustment to the briefing schedule would allow Defendants-Appellees to complete a thorough review of the record and prepare their arguments. Defendants-Appellees have not requested nor received any other deadline extensions.

For the foregoing reasons, the Court should grant Defendants-Appellees' motion for a thirty-day extension and order Defendants-Appellees' responsive briefing due on February 24, 2014, thereby modifying all subsequent deadlines.

Dated: December 17, 2013

Respectfully submitted,

By /s/ Jennifer A. Kash

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

Jennifer A. Kash

jenniferkash@quinnemanuel.com

Sean S. Pak

seanpak@quinnemanuel.com

Dave Nelson

davenelson@quinnemanuel.com

50 California Street, 22nd Floor

San Francisco, California 94111

Telephone: (415) 875-6600

Facsimile: (415) 875-6700

*Attorneys for Defendant-Appellee
Symantec Corp.*

/s/ Anthony Stiegler

COOLEY LLP

Anthony Stiegler

astiegler@cooley.com

Lori R. Mason

lmason@cooley.com

4401 Eastgate Mall

San Diego, California 92121

Telephone: (858) 550-6000

Facsimile: (858) 550-6420

*Attorneys for Defendant-Appellee
Websense, Inc.*

/s/ John Allcock

DLA PIPER LLP (US)

John Allcock

john.allock@dlapiper.com

Sean C. Cunningham

sean.cunningham@dlapiper.com

Kathryn Riley Grasso

kathryn.riley@dlapiper.com

401 B Street, Suite 1700

San Diego, California 92101

Telephone: (619) 699-2700

Facsimile: (619) 669-2701

*Attorneys for Defendant-Appellee
Sophos Inc.*

2013-1682

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

FINJAN INC., a Delaware corporation,

Plaintiff-Appellant,

v.

SYMANTEC CORP., a Delaware corporation, WEBSense INC., a
Delaware corporation, SOPHOS INC., a Massachusetts corporation,

Defendants-Appellees.

Appeal From the United States District Court for the District
of Delaware, Case 10-CV-593-GMS, Judge Gregory M. Sleet

**DECLARATION OF DAVE NELSON IN SUPPORT OF DEFENDANTS-
APPELLEES' UNOPPOSED MOTION FOR A THIRTY DAY EXTENSION
OF TIME TO FILE THEIR RESPONSIVE BRIEFING**

I, Dave Nelson, declare as follows:

1. I am an attorney in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP and am counsel for Defendant-Appellee Symantec Corp. in the above-captioned case. I provide this declaration upon personal knowledge and, if called upon as a witness, would testify competently as to the matters recited herein.

2. I submit this declaration in support of Defendants-Appellees' motion for a thirty day extension of the briefing schedule. This is Defendants-Appellees' first extension request in this appeal.

3. On September 27, 2013, the Court docketed this appeal and set the deadline for Plaintiff-Appellant's opening brief to November 26, 2013.

4. On October 15, 2013, Plaintiff-Appellant conferred with Defendants-Appellees regarding a two week extension of time to file its opening brief. Defendants-Appellees stated that they did not oppose Plaintiff-Appellant's request for an extension. Accordingly, Plaintiff-Appellant filed its motion unopposed on October 21, 2013, and the next day, this Court granted the motion.

5. Pursuant to the Court's order granting the extension of time,

Plaintiff-Appellant filed its opening brief on December 10, 2013. This Court docketed the brief, noting Defendants-Appellees' responsive briefing is due January 24, 2014.

6. Subsequently, on December 11, 2013, Defendants-Appellees conferred with Plaintiff-Appellant regarding a thirty day extension to file their responsive briefing. Plaintiff-Appellant stated that it did not oppose the motion.

7. I was Defendant-Appellee Symantec Corp.'s lead trial counsel in this case and will be heavily involved in the appeal of this action as well. However, during this time, I am also preparing for trial in another matter that is scheduled to begin in January 2014. That matter is *Lutron Electronics v. Crestron Electronics, et al.*, Case No. 2009-cv-707 (D. Utah).

8. Accordingly, Defendants-Appellants respectfully request a thirty day extension for their responsive briefing, such that the briefing would be due on February 24, 2014 instead of January 24, 2014. This time extension would modify all subsequent deadlines accordingly.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: December 17, 2013

/s/ Dave Nelson

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

Dave Nelson

davenelson@quinnemanuel.com

500 West Madison Street, Suite 2450

Chicago, Illinois 60661

Telephone: (312) 705-7400

Facsimile: (312) 705-7401

*Attorney for Defendant-Appellee
Symantec Corp.*

2013-1682

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

FINJAN INC., a Delaware corporation,

Plaintiff-Appellant,

v.

SYMANTEC CORP., a Delaware corporation, WEBSense INC., a
Delaware corporation, SOPHOS INC., a Massachusetts corporation,

Defendants-Appellees.

Appeal From the United States District Court for the District
of Delaware, Case 10-CV-593-GMS, Judge Gregory M. Sleet

**DECLARATION OF LORI MASON IN SUPPORT OF DEFENDANTS-
APPELLEES' UNOPPOSED MOTION FOR A THIRTY DAY EXTENSION
OF TIME TO FILE THEIR OPENING BRIEF**

I, Lori Mason, declare as follows:

1. I am Of Counsel at the law firm of Cooley, LLP, counsel for Defendant-Appellee Websense, Inc. in the above-captioned case. I have personal knowledge of the facts set forth in this declaration and, if called upon as a witness, I could and would testify to such facts under oath.

2. I submit this declaration in support of Defendants-Appellees' motion for a thirty-day extension of the briefing schedule. This is Defendants-Appellees' first extension request in this appeal.

3. I currently have individual scheduling conflicts that support extending the time for Defendants-Appellees to file their response brief. In particular, I am appellate counsel for a California Court of Appeal brief that is currently due on December 23, 2013 and am responsible for post-trial briefing in a patent infringement case that is currently due on January 8, 2014. Two Ninth Circuit appeals in which I am counsel are scheduled for January 13, 2014 and February 10, 2014. I also have additional work-related travel scheduled during three weeks in January 2014.

4. Accordingly, Defendants-Appellants respectfully request a thirty-day extension for their responsive brief, such that the brief would be due on February 24, 2014 instead of January 24, 2014.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: December 17, 2013

By: *s/ Lori R. Mason*

COOLEY LLP
Lori R. Mason
lmason@cooley.com
3000 El Camino Real
Palo Alto, CA 94306-2155
Telephone: (650) 843-5000
Facsimile: (650) 857-0663

Attorneys For Defendant-Appellee
Websense, Inc.

Certificate of Interest

Counsel for Defendant-Appellee, Symantec Corp., certifies the following:

1. The full name of every party represented by us is:

Symantec Corp.

2. The name of the real party in interest represented by us is:

Symantec Corp.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

Symantec Corp. has no parent corporation. There are no publicly held companies that own 10 percent or more of Symantec Corp.'s stock.

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Quinn Emanuel Urquhart & Sullivan LLP by David A. Nelson, Jennifer A. Kash, Sean S. Pak, Mark D. Baker, Aaron Perez-Daple, Sam Stake, and Howard Chen. Morris, Nichols, Arsht & Tunnel LLP by Jack B. Blumenfeld and Maryellen Noreika.

Dated: December 17, 2013

/s/ Jennifer A. Kash
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
Jennifer A. Kash
jenniferkash@quinnemanuel.com
50 California Street, 22nd Floor

San Francisco, California 94111

Telephone: (415) 875-6600

Facsimile: (415) 875-6700

*Attorneys for Defendant-Appellee
Symantec Corp.*

Form 9

FORM 9. Certificate of Interest**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**Finjan Inc. v. Symantec Corp., Websense, Inc. and Sophos, Inc.No. 13-1682**CERTIFICATE OF INTEREST**

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellee Sophos, Inc. certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:
Sophos, Inc.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:
Sophos, Inc.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:
Sophos, Inc. is a wholly owned subsidiary of Sophos Limited which is a privately held company in the United Kingdom. No publicly held corporation directly or indirectly owns 10% or more of its stock.

4. ☒ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

DLA Piper LLP (US) by John Allcock, Sean C. Cunningham, Kathryn Riley Grasso, Brian A. Biggs, Ryan W. Cobb, John Kinton (no longer with the firm), Denise S. Kraft, Megan E. McCarthy (no longer with the firm), Ann A. Parmely (no longer with the firm), Aleine Porterfield (no longer with the firm) and Melissa Puckett (no longer with the firm); and Morris James LLP by Kenneth Laurence Dorsney; and McAndrews IP by Larry Jarvis, George McAndrews and Robert B. Polit

12/17/2013

Date

/s/ John Allcock

Signature of counsel

John Allcock

Printed name of counsel

Please Note: All questions must be answered

cc: _____

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Finjan, Inc. v. Symantec Corp., Websense, Inc., and Sophos, Inc.No. 13-1682

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Websense, Inc. certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

Websense, Inc.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

N/A

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

Websense, Inc. is a wholly owned subsidiary of Vista Equity Partners.4. ☐ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:Anthony M. Stiegler of Cooley LLP and John Kyle formerly of Cooley LLP and Thomas Grimm of Morris Nichols Arsht & Tunnell LLP appeared in the district court. Anthony M. Stiegler and Lori R. Mason of Cooley LLP will appear for Websense, Inc. in this Court.December 17, 2013

Date

/s/ Anthony M. Stiegler

Signature of counsel

Anthony M. Stiegler

Printed name of counsel

Please Note: All questions must be answered

cc: All Counsel

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2013, I filed or caused to be filed the foregoing with the Clerk of the United States Court of Appeals for the Federal Circuit via the CM/ECF system and served or caused to be served a copy on all counsel of record by the CM/ECF system and electronic mail.

Dated: December 17, 2013

/s/ Jennifer A. Kash
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
Jennifer A. Kash
jenniferkash@quinnemanuel.com
50 California Street, 22nd Floor
San Francisco, California 94111
Telephone: (415) 875-6600
Facsimile: (415) 875-6700

*Attorneys for Defendant-Appellee
Symantec Corp.*